THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition Nos.22938 of 2004 & 9701 of 2005

Date: 3rd October, 2007

Between :-

W.P.No.22938/2004

Sri Ram Hanuman Matt
rep. by its Mahant Rambharose Das .. Petitioner

And

The Commissioner of Endowments,
Tilak Road, Hyderabad
And 3 others .. Respondents

W.P.No.9701/2005

Sri Hanuman Bhajan Mandali
Rep.by its Secretary Sri Y.Ramdas .. Petitioner

And

The Regional Joint Commissioner,
Endowments Department,
M.Z.III, Hyderabad and 3 others .. Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition Nos.22938 of 2004 & 9701 of 2005

COMMON ORDER:-

W.P.No.22938/2004 is filed by Sri Ram Hanuman

Matt represented by its Mahant Rambharose Das challenging the proceedings No.DD H-1/61706/2004, dt.22-11-2004, made by the Additional Commissioner of Endowments, Tilak Road, Hyderabad – the 2nd respondent in the Writ Petition as illegal, arbitrary and also prayed for the appropriate reliefs.

2. W.P.No.9701/2005 is filed by Sri Hanuman Bhajan Mandali represented by its Secretary Y.Ramdas praying for the Writ of Mandamus declaring the orders passed in I.A.No.14/2005 on the file of the 1st respondent as arbitrary, illegal and contrary to the provisions of the Andhra Pradesh Charitable and Hindu Religious Institution and Endowments Act, 1987 (hereinafter, in short, referred to as 'the Act' for the purpose of convenience) and pass such other suitable orders.

3. The writ petitioner in W.P.No.22938/2004 is shown as 3rd respondent in W.P.No.9701/2005.

4. W.V.M.P.No.1630/2005 is filed in W.P.No.9701/2005 by the 4th respondent to vacate the stay granted in W.P.M.P.No.12664/2005 in W.P.No.9701/2005 dt.26-4-2005. In W.P.No.22938/2004 *rule nisi* was issued on 10-12-2004 and on the self-same day interim suspension of proceedings dt.22-11-2004 had been granted.

5. Since both the matters are virtually concerned with the same subject matter, these Writ Petitions are being disposed of by a common order.

6. Heard Sri Narasimha Rao, Sri Raghuram, Sri Srinivas and the learned Government Pleader for Endowments, the Counsel representing respective parties.

7. Submissions at length were made in the light of the respective stands taken by the parties and also reliance was placed on certain decisions.

8. In W.P.No.22938/2004 the writ petitioner pleaded that *the petitioner is Mahanth of the petitioner Math and he is questioning the proceeding dt.22-11-2004 aforesaid made by the 2nd respondent in appointing Executive Officer to the petitioner Math as illegal. It is stated that Shri Ram Hanuman Muth Temple was established by great Grand Guru Mahant Mohan Das Ji and the said Great Grand Guru was the jagirdar of the Shri Ram Hanuman Muth. It is also stated that late Mahant Mohan Das Ji was the sole Mahant and there are 3 Samadhis in the Muth belonging to Mohan Das ji, Rambarose Das ji and Moti Das ji. It is further stated by the petitioner that the Samadhis are respected and daily worship to the Samadhis is being performed by him being Mahant. It is*

also stated that the Muth is also having several Temples within its precincts and the pujas in the Muth are performed as per the Vaishnav Sampradaya. It is also further stated that the subject Muth is also registered with Endowments Department in F.No.16/2, Aukaf in the year 1345 Fasli as per the Muntakhab Kitabur aukaf was prepared by the Director of Ecliastical Department of Sarkar Ali Government. It is also stated that after the death of Mahant Moti Dasji, the petitioner was recognized as the Mahant of Shri Ram Hanuman Muth as per proceedings No.53/01/1957, dt.8-10-1960 passed by the Asst.Secretary, Board of Revenue Government of Andhra Pradesh and the wife of late Mahant Mohan Das Ji namely Smt.Hira Bai was appointed as guardian. It is also stated by the petitioner that he is managing the Muth and after he became major, he was also recognized as the Mahant of the petitioner Muth by the Endowments Department by proceedings in Defendant-292/192, dt.12-5-1995. It is further stated that as per the provisions of the Act, the petitioner had been discharging his duties with utmost devotion and he had been managing the Muth including the Temple attached to the Muth and the income of the Muth is Rs.22,000/- per annum. It is also stated that it is relevant to submit that one Pilla Guru Murthy filed Revision Petition against the order dt.12-5-1995

recognising the petitioner as Mahant of Subject Muth before the Regional Joint Commissioner, Multi Zone-III, Endowments without any condone delay petition after a lapse of more than nine years and the said revision petition was filed on 14-9-2004. It is also stated that in the said O.A., Pilla Guru Murthy filed I.A.No.1371/2004 for a direction that the petitioner should not interfere with the traditional devotional activities of Shri Ram Hanuman Muth Temple like performing Abhishekas, pujas and Sevas which are being performed since last several years in the Temple. It is further stated that the said application was allowed by order dt.17-11-2004 by the 2nd respondent restraining the petitioner from interfering in any way with traditional and devotional activities of Shri Ram Bhakta Samajam, Nampally. It is also further stated that aggrieved by the said order dt.17-11-2004, the petitioner filed W.P.No.21732/2004 and the said Writ Petition was disposed of on 26-11-2004 stating that the petitioner should not obstruct performance of pujas and Bhajans and further that under the guise of the said order, the said Guru Murthy or the Ram Bhakta Samajam shall not be entitled to interfere with the administration and management of the muth. It is also further stated that Chapter-V of the Act deals with Muths and Specific

Endowments under Section 47 of the Act and it is also stated that "Mathadipathi" is defined as a person who is known as Mahant or by any other name in whom the administration and management of the Muth or specific endowment is vested and also further stated that in the light of the order dt.12-5-1995 of the department, no person can interfere with the administration of Sri Ram Hanuman Muth Temple. It is also further averred in para 5 that the Assistant Commissioner, Endowments, Hyderabad vide his proceedings Rc.No.D/927/04, dt.6-10-2004, issued a notice to the petitioner to explain reasons for not intimating the department about the construction made by the petitioner without permission of the department along with copy of the MCH approval. It is also stated that the Assistant Commissioner of Endowments Department, Hyderabad vide proceedings Rc.No.D/927/04 dt.10-11-2004 directed the petitioner not to restrain Rama Bhakta Samajam to perform Utsavams as usual and to work for improvement of the Temple and also directed to submit proposals for leasing out newly constructed building rooms in public auction as per rules along with an explanation as called for in the notice dt.6-10-2001 and the petitioner informed the authorities about pendency of R.P.No.1056/04 and requested for some time to submit his explanation. It is

further stated that the sequence of events would establish that the said Pilli Gurumurthy or Ram Bakth Samajam is influencing authorities to interfere with daily administraton of the Muth, which is controversy to the Act. It is also further stated that while so, the 2nd respondent issued proceedings D.Dis.No.H-1/61706/04, dt.22-11-2004 stating that the 4th respondent is kept in full additional charge of the subject institution and that the said order is illegal inasmuch as the petitioner's Mahantship was sanctioned as per proceedings dated 8-10-1960 issued by the Assistant Secretary, Board of Revenue, Endowments Department, Government of Andhra Pradesh, and subsequently by proceedings dated 12-5-1995, the petitioner's Mahantship has been recognized. It is also stated that as already submitted, the very Section 47 of the Act clearly states that a Mahant is one in whom the administration and management of the Muth are vested. It is also stated that when the administration and management are already vested in the petitioner, there is no justification in the orders issued by the 2nd respondent keeping the 4th respondent in full additional charge of the Muth. It is also stated that there is apparent conflict in the order passed by the 2nd respondent while the petitioner is

ready in managing and administration the Muth and further the petitioner had not been issued any notice by the 2nd and order is contrary to the principles of natural justice. It is further stated that while disposing of W.P.No.21732/2004 by order dt.26-11-2004 this Hon'ble Court was pleased to clearly observe that there shall not be any interference with the administration and management of the Muth and taking advantage of the order dt.22-11-2004, the respondent is trying to take charge from the petitioner. It is stated by the petitioner that he has not so far handed over the charge but however in the Caveat Petition filed by the 4th respondent it is stated as if the 4th respondent has taken charge. The petitioner also further stated that there is no justification or truth in the said statement made by the 4th respondent inasmuch as the petitioner is very much administering and in management of subject institution. It is also stated that the order dt.22-11-2004 was not brought to the notice of this Court on 26-11-2004 when W.P.No.21732/2004 was disposed of by this Hon'ble Court by the 4th respondent who filed a caveat in the said Writ Petition and the circumstances show that the order dt.22-11-2004 was not in existence as on 26-11-2004. It is also further stated that the order dt.22-

11-2004 refers to the report alleged to have been submitted by the Assistant Commissioner on 19-11-2004 and in fact, the Assistant Commissioner, Endowments did not issue any notice to the petitioner before submitting his report to the 2nd respondent. It is also stated that the report submitted by the Assistant Commissioner, Endowments, Hyderabad is behind the back of the petitioner Mutt and such a report is not binding upon the petitioner Mutt and basing on such report, 4th respondent cannot be put in full additional charge and the whole exercise was done contrary to the principles of natural justice.

9. The impugned order dt.22-11-2004 reads as hereunder:-

Office of the Commissioner,
Endowments Department,
A.P., Hyderabad

D.Dis.No.H1/61706/2004, dated 22-11-2004.

Sub:- Endowments Department – Sri Hanuman Temple, Goods shed, Nampally, Hyderabad – Sri A.Ashok, Executive Officer, Sri Hanuman Temple, Vijaya Nagar Colony, Hyderabad, kept in full addl.charge to the Temple – Orders – Issued.

Ref:- Rc.No.E/927/2004, dt.19-11-2004 of the Assistant Commissioner, Endowments Department, Hyderabad.

* * *

In the circumstances, report by the Assistant Commissioner, Endowments Department, Hyderabad in the reference cited, Sri A.Asok, Executive Officer, Sri Hanuman Temple, Vijayanagar Colony group Temples is hereby kept in full additional charge of Sri Hanuman Temple, Goods Shed, Nampally, Hyderabad for better management of the institution.

Sri A.Ashok, Executive Officer, is requested to assume complete charge of the Temple at once and report compliance.

The Assistant Commissioner, Endowments Department, Hyderabad is requested to see that above orders are implemented forthwith.

(BY ORDER OF THE ADDITIONAL COMMISSIONER)

Sd/- T.Shivaji,

Deputy Commissioner (S)

10. In W.P.No.21732/2004, the learned Judge of this Court by order dt.26-11-2004 observed as hereunder:-

"The petitioner challenges the very maintainability of the R.P. in relation to the Temple referred to above. The R.P. is at the initial stage. The maintainability of the same can certainly be raised before the first respondent. The petitioner is impleaded as the second respondent in the R.P. If the petitioner is able to persuade the first respondent with reference to the relevant provisions and facts that the revision is not maintainable, he can certainly be granted the necessary relief. This Court does not find it appropriate to interfere at this stage.

Further, the purport of the order passed in the I.A., is only to enable the third respondent and other associates to perform pujas and bhajanas. It cannot be said that on

account of performance of pujas and bhajans, the right of the petitioner is, in any way, jeopardized. To remove the doubts, it is made clear that the third respondent shall not be entitled to interfere with the management under the guise of the orders passed in the I.A. The first respondent shall expedite the disposal of the R.P.

With the above observations, the Writ Petition is disposed of. No order as to costs."

11. In the counter affidavit filed by the respondents, while denying the allegations, it is averred that *the petitioner is styling himself as Mahant of Sri Ram Hanuma Mutt, which is not correct. Further it is averred that the facts is that there is no such institution in the name of Sri Ram Hanuman Mutt except Sri Hanman Temple, Nampally, Hyderabad to which Sri Rambharose Das has been functioning only as Pujari and therefore, as the institution is a Temple having been poublished as such under Section 6 (c) (ii) of the Endowments Act 30/87, the 1st respondent is competent the Executive Officer under Section 29 of the amts Act. It is also stated that the proceedings in D.Dis.No.H1/61706/2004, dt.22-11-2004 issued by the 1st respondent is quite legal, proper, justified and correctly issued in accordance with the provisions of the Endowments Act. While replying to the averments made in para 2 of the affidavit, it is stated that even according to file No.16/2 Awkaf 1345 Fasli maintained by*

the then directorate of Ecliastical Department, the institution was mentioned only as a Temple and Sri Rambharose Das was mentioned as Mutawalli i.e., the Trustee of the Temple and subsequently, the order was issued by the then Director of Endowments in Memo.No.53/D.1/1957, dt.8-10-1960, recognizing the petitioner Sri Rambharose Das as Mahanth of Sri Hanuman Temple situated the Nampally, but no where the institution was mentioned as Mutt and thereafter, the Assistant Commissioner, Endowments Department, Twin Cities, Hyderabad recognized the petitioner as Mahanth of Sri Hanuman Temple only by his Rc.No.D/292/93, dt.12-5-1995 and even by this proceedings also the institution was not mentioned as Mutt. It is also stated that even from the beginning the institution is being mentioned only as Sri Hanuman Temple and accordingly the Temple was also published u/s. 6(c) (ii) of the Endowments Act at Sl.No.613 and notification is being mentioned has also been issued in Rc.No.J3/6689/97 of Commissioner of Endowments and it was duly published by Gazette No.38, Dt.21-9-89. It is also stated that contrary to the contents of the records maintained by the Department even from the beginning, the petitioner with a malafide intention has falsely representing the institution as Mutt which is quite in

correct and false. It is also stated that definition of the Trustee means any person whether known as Mattadipathi/Mahanth/Muntasim of by any other name includes a Board of Trustees. It is further stated that prior to the enforcement of the Endowments Act 30/1987, in some of the institutions, the trusteeship as well as the Archakatwam or the person performing the puja was held as hereditary but the said right was abolished by the provision laid down usn16 and 34 of the Endowments Act 1987 and the Hon'ble Supreme Court of India upheld the abolition of the Hereditary Trusteeship U/s.16 of the Act in Pannalal Bansilal Pitti vs. The State of A.P. (1996 (2) SCC. 498 – AIR 1996 S.C. 1023) on the ground that the appointment of the Trustee and carrying on the administration a secular activitiy and not interference with freedom of religion U/s.25(1) of the Constitution is caused by such abolition. It is also stated that similarly the Hereditary Right of the Archaka or Pujaris or Mahanths was abolished u/s.34 of the Endowments Act 1987 and the said Section was upheld by the Supreme Court of India in A.S.Narayana Deekshithulul vs. State of A.P. (AIR 1996 S.C., 1975). It is further stated that the Hereditary right of the petitioner if any in respect of the Temple in question having been abolished by the Endowments Act 1987 and the said abolition having been upheld by the

Supreme Court, the petitioner has nothing to do with the Temple except continuing himself as Pujari or Archaka to render the service in the Temple if he is qualified duly passing the Archaka Examination conducted by the Endowments Department annually. It is also further stated that the petitioner is not qualified to do Archakatwam and therefore, he has no locus standi to question the appointment of an Executive Officer made by the 1st respondent u/s.29 of the Endowments Act 1987 which was also upheld by the Supreme Court in W.P.No.713/87 by Judgment dt.17-1-1996 (Pannalal Bansilal Pitti vs. State of A.P. (1996 (2) SCC. 498 – AIR 1996 S.C. 1023). In reply to para 3 it is stated that as already submitted, the petitioner on his representation dt.20-4-95 was recognized as Mahanth by Assistant Commissioner, Endowments Department, Twin Cities, Hyderabad in respect of Sri Hanuman Temple for rendering pooja and he was permitted to succeed his predecessor as the orders of the Hon'ble Supreme Court upholding the abolition of the Hereditary rights were not received by that time and even in this orders also the institution was mentioned only as Sri Hanuman Temple correctly and no where it has been mentioned as Mutt as falsely represented and being canvassed by the

petitioner. It is further stated that it is not correct that one Pilli Gurumurthy filed Revision Petition before Regional Joint Commissioner, M.Z-III, Hyderabad against the orders dt.12-5-1995 and the said Revision Petition is pending and during the pendency of the said Revision petition interim directions were issued by the Regional Joint Commissioner by his orders dt.17-11-2004 to the petitioner not to interfere with the traditional devotional activities in Sri Hanumant Temple like performing Abhiskam, Pujas and Sevas which are being performed since last several years interest Temple. It is also stated that the petitioner questioned this order in W.P.No.21732/2004 before this Hon'ble Court and the said Writ Petition was disposed of on 26-11-2004 allowing Sri Pilli Gurumuthy to perform pujas and Bhajans without interference is continuing in the Temple, styling himself as a Matadhipathi and naming the institution as a Mutt and misleading the public and not allowing the devotees to perform puja in the Temple. It is also stated that the petitioner also started claiming proprietary rights in respect of Sri Hanuman Temple raising illegal constructions without the knowledge of the Endowments Department with the donations collected from the devotees illegally without bringing them to the Temple accounts. In reply to para 4, it is stated that the institution is only Sri Hanuman

Temple duly coming under the definition of Temple and not a Mutt. It is also stated that the name of the institution has been continuously mentioned as Sri Hanuman Temple even from the beginning from all the documents and now it has been published as Sri Hanuman Temple u/s.6(c) (ii) of the Endowments Act and as such it is only a Temple and not a Mutt. It is further stated that the petitioner is styling himself that he is a Mahanth calling the Temple as Mutt and therefore he is falsely asserting that no person can interfere with the administration of the institution. It is also stated that, as already stated this is Sri Hanuman Temple, the 1st respondent is legally competent to appoint an Executive Officer under Section 29 of the Act and therefore, the petitioner has no locus standi to question the said order. It is also stated that the petitioner is nor deriving any right as Matadhipathi by virtue of order dt.12-5-1995 of Assistant Commissioner, Endowments Department, Twin Cities, Hyderabad as falsely represented by him as the said order simply states about his succession in respect of the said institution which was mentioned as Sri Hanuman Temple only but not as a Mutt. In reply to para 5 it is stated that the Assistant Commissioner, Endowments Department, Hyderabad being the authority having administrative

jurisdiction in respect of Sri Hanuman Temple published u/s.6(c)(ii) of the Act, he has correctly issued the notice dt.6-10-2004 to the petitioner asking him to explain the reasons for not intimating the Department about the illegal construction made by the petitioner. It is further stated that the Assistant Commissioner by his order dt.10-11-2004 directed the petitioner who is continuing as unqualified pujari not to restrain Sri Ram Bhaktha Samajam and to work for improvement of the Temple and the petitioner was also asked to lease out the newly constructed rooms in public auction as per rules. It is also stated that instead of complying with the legal directions issued by the Administrative authorities of the Department, the petitioner styling himself as Matadhipathi and calling institution as Mutt has been interfering unduly with the usual religious activities being performed by the devotees and harassing them which is quite unjustified. It is also further stated that the institution is Sri Hanuman Temple situated at Goods shed, Nampally, Hyderabad and as seen from the old documents also it has been mentioned as Temple only and no where it has been mentioned either as a Mutt or either the petitioner or predecessors of the petitioner as Matadhipathi. It is also stated that as there used to be hereditary Mutawalliship in some Temples, the recognition was given to the successors for

rendering pujapat which was misconstrued by the petitioner and began to call himself as Matadhipathi and the Temple as a Mutt. It is further stated that by virtue of the abolition of the Hereditary systems as upheld by the Supreme Court of India, the Hereditary rights of the Pujari also stood abolished statutorily and the petitioner has been continuing as a mere non-hereditary pujari with no qualification and that he has been interfering in the religious activities and performance of puja done by the devotees and also the development of the Temple questioning the jurisdiction of the Endowments Department also and he has been raising illegal construction also claiming proprietary right in respect of the Temple. It is also stated that it is only to set right the administration of the Temple on sound lines in accordance with the provisions of the Endowments Act, the 1st respondent in accordance with the powers vested in him appointed an Executive Officer in D.Dis.No.H1/61706/04 and the petitioner has questioned this order in this W.P. stating the said order is illegal because of his Mahanthship as sanctioned by the Assitatn Secretary by order dt.8-10-1960 and subsequently by Proc. Dt.12-5-1995 of the Assistant Commissioner, Endowments Department, Twin Cities,

Hyderabad. It is also stated that as already submitted the institution is only a Temple but not Mutt and as such the question of the petitioner continuing himself as Matadhpathi or Mahanth in the management of the Temple does not arise and his hereditary rights if any in respect of Temple already stood abolished and therefore he has no manner to continue in the management to the Temple. It is further stated that the 1st has legally exercised the powers in appointing an Executive Officer under the provisions of the Act and the petitioner has no locus standi to question legality of the said order and there is no necessity of issuing the notice to the petitioner as claimed by him regarding appointment of Executive Officer. It is also further stated that the petitioner is continuing as Pujari or non-hereditary Mahanth with no requisite qualifications and as such the 1st respondent has correctly assessed the necessity to set right the administration of the Temple and therefore appointed the Executive Officer by his Proc. Dt.22-11-2004. It is further stated that as already submitted the petitioner is not having any locus standi to question this order and therefore there is no necessity to issue a prior notice to him either by the 1st or 3rd respondents and therefore, the order dt.22-11-2004 appointing the Executive Officer in

respect of Sri Hanuman Temple is quite proper, legal and binding on the petitioner. Further specific stand is taken that the petitioner rushed up to this Court invoking Article 226 of the Constitution of India without availing the alternative remedy of filing Revision Petition before the Government under Section 93 of the Act and therefore, the Writ Petition is liable to be dismissed.

12. Reply affidavit also was filed by the petitioner in the said Writ Petition, again substantially denying the allegations made in the counter affidavit and narrating several facts. It is averred in the reply affidavit that *the petitioner institution is a Mutt and it cannot be terms as a Temple and the 1st respondent has no jurisdiction to appoint an Executive Officer under Section 29 of the Endowments Act. In answer to the allegations in reply to para 2 of the affidavit, it is stated that mere mentioning of Temple in the Mutakab does not change the nature of the institution and in fact on a similar description, the Kalika Mutt run by Guru Moti Das Ji was already notified as a Mutt vide proceedings R.Dis.No.52/74061/81, dt.23-5-81 and hence it is not open for the respondents to contend that petitioner institution is a Temple and not a Mutt. It is also stated that even in the proceedings dt.8-10-1960, petitioner institution was mentioned as a Mutt and the*

petitioner was recognized as a Chela of Guru Moti Das Ji and appointed the petitioner as a Mahant and in those circumstances, petitioner institution is a Temple. It is further stated that above all, the proceedings dt.8-10-1960 were issued by the Assistant Secretary and hence the respondents cannot disobey the same and the notification given in Gazette on 21-9-1989 does not refer to the petitioner institution as always the petitioner institution has been referred to as Goods Shed, Nampally, Hyderabad and in fact, in Nampally there are four Hanuman Temples and in every proceedings the petitioner institution has been referred to as Goods Shed, Nampally, Hyderabad and nowhere it has been mentioned as Hanuman Temple, Nampally, Hyderabad. It is also stated that the said Notification referred to in counter affidavit does not relate to the petitioner institution and the respondents are put to strict proof of the same. It is also stated that the allegation that the petitioner is a Trustee as laid down under Section 2 (29) of the Endowments Act 30 of 1987 is not true and the respondents are put to strict proof of the same. It is further stated that the institution was established in the year 1945 and for the last 60 years, the Department never exercised any control over the Mutt and question of appointing an Executive Officer to the petitioner institution does not arise. It is also stated that

the ratio laid down in AIR 1996 SC 1023 has no application to the facts of the case and also it is not open to the respondents to contend that the petitioner is only a Archaka or Poojari or Matadhipathi and the petitioner institution is not a Mutt and it is only a Temple. It is also stated that the Notification referred to even assuming without admitting relates to the petitioner institution. It is also stated that such a notification cannot be there in view of the fact that though it was long recognized as a Mutt and there are Samadhies and regular rituals have been carrying on as per the custom and usage and hence a Notification which runs contrary to the customs and usage cannot be treated as valid one and all the averments in this paragraph are misleading. In answer to the allegations in reply to para 3, it is stated that the said Pilli Guru Murthy or Rama Bhakta Samajam are behind this litigation and they have eye over the institution, they want to illegally grab the institution with the support of the respondents and once the institution is a Mutt, these people have no right to interfere with the administration of the institution by taking false pleas. In answer to the allegations in reply to para 4, it is stated that the petitioner institution is a Mutt and a repetition of the very same allegation does not change the nature of the institution

and the respondents cannot contend that the petitioner institution is a Temple and they are entitled to appoint an Executive Officer to the Temple. In answer to the allegations in reply to para 5, it is stated that the notice dt.6-10-2004 have no relevance as far as the present controversy in the Writ Petition is concerned and the respondents cannot assume jurisdiction by issuing such notices which otherwise does not vest with them. In answer to the allegations in reply to para 6, it is stated that once the petitioner institution is a Mutt and as long as proceedings dt.8-10-1960 and 12-5-1995 are subsisting, the question of the respondents contending that there is no hereditoryship of the Mutt and the question the petitioner is managing the Temple as a Trustee does of the arise and therefore, the allegation that his hereditary rights, if any, in respect of the Temple already stood abolished and therefore the petitioner had no manner to continue in the management of the Temple are farfetched. It is also stated that the respondents are supposed to act in accordance with law and cannot take law into their hand to favour certain individuals. The allegations in reply to para 7 it is stated by the petitioner that he is continuing as Poojari or as non-hereditary Mahant with no requisite qualification and as such the 1st

has correctly assessed the necessity to set right the administration of the Temple and therefore appointed an Executive Officer by proceedings dated 22-11-2004 is absolutely incorrect and respondents are put to strict proof of the same. It is stated that in fact, such a reasoning does not find place in the impugned proceedings dated 22-11-2004 and respondents cannot supply reasons for the impugned order dated 22-11-2004 in the counter affidavit. It is further stated that the allegation that the petitioner institution or the petitioner himself has no right to challenge the impugned order dated 22-11-2004 is absolutely incorrect and since the petitioner situation is a Mutt, the petitioner institution has every right to challenge the proceedings dated 22-11-2004 and there is clinching evidence to establish that the petitioner institution is a Mutt. In answer to the allegations in reply to para 9, it is stated that a revisional power is never treated as an efficacious alternative remedy especially when the authorities are bent upon and made up their mind to dispossess the petitioner by misstating the facts and once the order was passed contrary to the principles of natural justice, this Court has jurisdiction and hence the Writ Petition filed by the petitioner institution is very much maintainable.

13. In W.P.No.9701/2005 it was averred in para 3 of the

affidavit filed in support of the Writ Petition that *the subject matter of R.P.No.1056/2004 is Math known as Sri Ram Hanuman Math and 3rd respondent is the Mahant of the said Math and in fact, 3rd respondent was recognized as Mahant of Sri Ram Hanuman Math as per the proceedings No.53/01/1957, dated 8-10-1960, passed by the Assistant Secretary, Board of Revenue, Government of Andhra Pradesh and thereafter the proceedings dated 12-5-1995 in D/292/93, the Endowments Department recognized the 3rd respondent as Mahant of Sri Ram Hanuman Math. It is also stated that while things stood thus, the 4th respondent filed R.P.No.1056/2004 on the file of the 1st respondent, questioning the orders dated 12-5-195 and in the said R.P., the petitioner has been impleaded as one of the respondents. It is further stated that vide proceedings dated 22-11-2004, the Additional Commissioner, Endowments, appointed Executive Officer to the 3rd respondent Math and questioning the said proceedings, the 3rd respondent filed W.P.No.22938/2004 and this Court was pleaded to admit the Writ Petition and passed the orders in W.P.M.P.No.30089/2004 on 10-12-2004 and the order passed by this Hon'ble Court reads as follows: "prima facie, it is evident that the petitioner has*

been recognized as Mathadipathi way back in the year 1995. As long as that order continues, respondents are not entitled to replace the petitioner or place anybody above him in the Matt. Hence, there shall be an interim suspension of proceedings dated 22-11-2004" and the said Writ Petition is still pending. It is further stated that in another Writ Petition W.P.No.21732/2004, which was dismissed Award admission stage, this Hon'ble Court held that the maintainability of the Revision Petition could certainly be raised before the 1st respondent. It is also further stated that since the Revision preferred by the 4th respondent is not maintainable, the petitioner herein filed I.A.No.14/2005 in R.P.No.1056/2004 requesting the 1st respondent to frame issue regarding maintainability of the R.P.No.1056/2004 which was filed under Section 92(4) of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (hereinafter would be referred to as 'Act'). It is also stated that the contention raised by the petitioner in the I.A. that the Revision itself is not maintainable and hopelessly barred by limitation and also in the Revision, the 4th respondent is questioning the orders passed in the year 1995 i.e., after a long gap of almost 9 years. It is further stated that the 1st respondent erroneously came to the conclusion that the revision is not

barred by limitation and the 1st has not passed any order regarding maintainability of the revision. It is also stated that the conclusion arrived by the 1st r that the revision was well within the time is not based on any evidence or material and the same is liable to be set aside, when the I.A. was filed requesting the 1st respondent to frame an issue regarding maintainability of R.P., the 1st respondent curiously has not dealt with the said question and dismissed the I.A., holding that revision was filed within the time. It is also stated that the period stipulated under the Act for preferring revision, even assuming for a moment, that the maintainability of revision is 90 days. In addition to that, Section 92 of the Act says "the Commissioner may either suo motu or on the application, call for and examine the record of any Deputy Commissioner or Assistant Commissioner, or of any other Officer subordinate to him or of any Executive Officer or any trustee of a charitable or religious institution or endowment, other than a math or a specific endowment attached to a math in respect of any administrative or quasi-judicial decision taken or order passed under this Act, but not being a proceeding in respect of which a suit or an appeal or application, or reference to a Court is provided by this Act to satisfy himself as to the

correctness, legality or propriety of such decision or order taken or passed, and if in any case, it appears to the Commissioner that such decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly." It is further stated that reading of Section 92 clearly go to show that the matter relating to Math would not come under Section 92 of the Act and thus, the revision preferred by the 4th respondent is not maintainable. It is also further stated in para 6 that a legal plea has been raised before the 1st respondent regarding maintainability of revision, the 1st respondent ought to have decided the issue before proceeding with the matter. It is further stated that the 1st respondent having dismissed the I.A.No.14/2005 is posting the matter at very short dates and if the 1st respondent allowed to proceed with the matter without deciding maintainability of the Revision, the petitioner and the 3rd respondent will be put to great irreparable loss. It is also stated that the order passed by the 1st respondent in I.A.No.14/2005 is liable to be set aside for the following among the other grounds:-

(a) The order of the 1st respondent is contrary to law and the same is liable to be set aside.

(b) The 1st respondent ought to have seen that the

Revision is not maintainable under Section 92 of the At when the matter is relating to Math or specific endowment attached math.

(c) *Even otherwise, the revision petition preferred by the 4th respondent is hopelessly barred by time and the 1st respondent ought to have seen that order passed in the year 1995 was challenged in the year 2004 without there being application to condone the delay.*

(d) *The conclusion arrived by the 1st respondent that the revision is filed within the time is totally erroneous.*

(e) *The 1st respondent ought to have seen that the 3rd respondent has recognized Sri Mahant way back in 1960 and the same was confirmed by the Endowments Department in the year 1995.*

In such circumstances, the aforesaid Writ Petition was filed questioning the order in I.A.No.14/2005 on the file of the 1st respondent.

14. W.V.M.P.No.1630/2005 is filed by 4th respondent as vacate petitioner wherein it was stated that *the petitioner had suppressed several material facts. It is stated that way back 1345 Fasli i.e., in the year 1936, the institution was registered as Temple vide file No.16/2 Aukhaf 1345 Fasli in the Book of Audaments through Muntakhab as can be seen from the copy of the Endowment dt.28th Amardad 1348 Fasli (1939 AD) and*

thereafter, the it is stated that was published u/s.6(c) (ii)of the 1960 Act and subsequently ups.6(c)(ii) of the Act 30 of 1987. It is also stated that in the year 1960 also, Director or Endowments vide Memo No.53/D.1/1957, dated 8-10-1960 has recognized the Institution as Temple and even in the proceedings of the Assistant Commissioner of Endowments vide Rc.No.D/292/93, dt.12-5-1995 the institution is shown as Temple and as such, while that being the status of the Institution, the Writ Petitioner has maliciously referred to the same as "Mutt". It is further stated that the matter of R.P.No.1056/2004 is Mandir known as Sri Rama Hanuman Mandir and not Math as stated falsely in the affidavit. It is further stated that it is utterly false to state that the 3rd respondent was recognized as Mahant of Sri Rama Hanuman Math in the year 1960 and thereafter the Endowments Department recognized the 3rd respondent as Mahant of Sri Ram Hanuman Math and in all these proceedings the institution was referred as Sri Ram Hanuman Mandir. It is also further stated that it is true that this respondent had filed R.P.No.1056 of 2004 on the file of 1st respondent questioning the proceedings No.D/292/93, dt.12-5-1995 recognizing the 3rd respondent herein as Mahant of the Temple. It is also stated that the other pleadings of the

respondent pertaining to W.P.No.30089/2004 pertains to the appointment of Executive Officer to the Temple and are beyond the scope of the present Writ Petition. It is further stated that it is pertinent to mention here that the W.P.No.21732/2004 was filed by the 3rd respondent herein questioning the jurisdiction of the 1st respondent herein in entertaining R.P.No.1056/2004 and the said Writ Petition was disposed of observing that all the pleas including the maintainability may be raised before the 1st respondent himself. It is also stated that it can be seen that the 3rd has been making efforts to get the R.P. proceedings stalled. It is also stated that having failed in the Writ Petition, the 3rd respondent had planted the writ petitioner herein and got filed the implead petition in the revision petition and the present Writ Petition is also an attempt by the 3rd respondent in overcoming the order in W.P.No.21732/2004 dt.26-11-2004. It is also stated that that the 1st respondent would entertain the revision petition u/s.92 of the Act filed within 90 days from the date of receipt of the order under challenge and in the instant case, the certified copies of the order were obtained on 12-9-2004 and the R.P. was filed on 14-9-2004 well within limitation and the same finds mention in the

impugned order. Further it is stated that as per the Scheme of the Act regarding procedure to be followed in the revision there is no provision vested in to frame a preliminary issue and hence I.A.No.14/2005 filed by the petitioner was rightly dismissed. It is also stated that all the contentious issues would be decided by the 1st respondent in the main case and that is the purport of the order of this Hon'ble Court in W.P.No.21732/2004. It is also stated that thus it is very clear that the very purpose of the filing the I.A. where there is no provision to frame preliminary issue, is to defeat and delay the proceedings in R.P. to benefit the 3rd respondent. It is further stated that the further contention that Section 92 prohibits "Matt" from the powers of revision and hence the 1st respondent does not have jurisdiction to entertain R.P. does not hold water since no where it is stated that the institution is a "Matt" and it has been continuously recognized by the Department as Mandir and hence the 1st is well within his powers to entertain the Revision Petition. It is also stated that it is neither necessary on the part of the 1st respondent nor is the 1st respondent is empowered under the Act to frame and decide a preliminary issue before deciding the main matter. It is further stated that the 1st

respondent has rightly posted the matter at very short dates so that the lis/isues may be decided either way. It is further stated that the very fact that the Writ Petition is aggrieved by the 1st respondent since his posting the matter at very short dates is itself an indication to the malafide intentions of the writ petitioner who does not want the issue to be settled. It is also stated that it is utterly false to state that the 3rd respondent will be put to a great irreparable loss if the preliminary issue is not decided. It is further stated that in fact the matter is at the enquiry stage and would conclude very soon if the interim orders are vacated and also there is absolutely no loss caused to the writ petitioner if the I.A. is not decided. It is further stated that the grounds raised in the Writ Petition are neither sustainable nor have any legal validity.

15. On overall appreciation of the facts and circumstances, the principal controversy appears to be that whether it is a Mutt or a Temple and submissions at length were made that in the light of the opinion already expressed in the counter affidavit filed by the 1st respondent, the superior authority in the hierarchy, there is no point in driving the parties to the alternative remedies either by way of revision or otherwise and even any appropriate directions for the disposal of the revision in the

facts and circumstances may not be just and proper. Strong reliance was placed on ***LAKSHMINDRA THEERTHA SWAMIAR v. COMMR., H.R.E., MADRAS*** [1]***; KRISHNA SINGH v MATHURA AHIR*** [2]***; COMMR., H.R.E. v. L.T.SWAMIAR*** [3]***; and SITAL DAS v. SANT RAM*** [4] and further elaborate submissions were made that there is no point in driving the parties either to the concerned Deputy Commissioner or it cannot be just and proper to simply direct the disposal of the revision and it would be just and proper if the Government is directed to look into the grievances and redress the same. It is no doubt true that in the counter affidavit of the 1st respondent, specific stand had been taken that it is a Temple and it is not a Matt. Be that as it may, it is not in serious controversy that the statutory revision is pending before the 1st respondent and W.P.No.9701/2005 was filed questioning the orders made in I.A.No.14/2005 on the file of 1st respondent. In the light of the same, this Court is of the considered opinion that it would be just and proper to direct the 1st respondent in W.P.No.9701/2005 to dispose of the Revision at an early date and it is needless to say that inasmuch as a statutory revision is pending before the 1st respondent, the 1st respondent to dispose

of the said Revision being uninfluenced by any of the stands taken by the parties in the respective pleadings in the present Writ Petition. It is also pertinent to note that in W.P.M.P.No.30089/2004 in W.P.No.22938/2004, the proceedings dt.22-11-2004 were suspended and in the light of the peculiar facts and circumstances liberty is given to the petitioner to pursue the remedies open to him in law and in the light of the fact that the interim suspension of the proceedings being there from 10-12-2004, the same to be operative for a period of four weeks, from the date of receipt of a copy of this order, to enable the writ petitioner to pursue the appropriate remedies available to him, if any, in law. It is needless to say that the 1st respondent in W.P.No.9701/2005 to dispose of the Revision preferably within a period of four weeks from the date of receipt of a copy of this order taking into consideration all the facts and circumstances and also giving opportunity to all the parties who may be interested in the said *lis* as reflected from the present Writ Petitions.

16. Accordingly, with the above directions, these Writ Petitions are disposed of. No order as to costs.

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Justice P.S.Narayana

October, 2007

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[1] AIR 1952 Madras 613
[2] AIR 1980 S.C., 707
[3] AIR 1954 S.C., 282
[4] AIR 1954 S.C., 606